

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

2010 NOV 15 P 3:58

CLERK OF DISTRICT COURT
ALEXANDRIA, VIRGINIA

PRAGMATUS AV, LLC,

Plaintiff,

v.

FACEBOOK, INC.,

YOUTUBE, LLC,

LINKEDIN CORPORATION,

and

PHOTOBUCKET.COM, INC.,

Defendants.

Civil Action No. 1:10cv1288

LMB/JFA

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Pragmatus AV, LLC, by counsel, files this complaint for patent infringement and states as follows:

The Parties

1. Plaintiff Pragmatus AV, LLC ("Pragmatus") is a limited liability company organized and existing under the laws of the Commonwealth of Virginia with its principal place of business at 601 North King Street, Alexandria, Virginia 22314.

2. Defendant Facebook, Inc. ("Facebook") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 1601 S. California Avenue, Palo Alto, California 94304.

3. Defendant YouTube, LLC ("YouTube") is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business at 901 Cherry Avenue, San Bruno, California 94066.

4. Defendant LinkedIn Corporation ("LinkedIn") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 2029 Stierlin Court, Mountain View, California 94043.

5. Defendant Photobucket.com, Inc. ("Photobucket") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 506 Second Avenue, Suite 300, Seattle, Washington 98104.

Jurisdiction and Venue

6. This is an action for patent infringement arising under the patent laws of the United States, United States Code, 35 U.S.C. § 271 *et seq.* This Court has subject matter jurisdiction over this action under Title 28, United States Code, §§ 1331 and 1338.

7. Facebook is subject to personal jurisdiction in this district because it has committed, and continues to commit, acts of infringement in Virginia, including in this district and division by maintaining multiple data centers containing servers in this district, and/or has engaged in continuous and systematic activities in Virginia. Facebook maintains a registered agent in Virginia through Corporation Service Company, 11 South 12th Street, P.O. Box 1463, Richmond, Virginia 23218-0000.

8. YouTube is subject to personal jurisdiction in this district because it has committed, and continues to commit, acts of infringement in Virginia, including in this district and division by maintaining multiple data centers containing servers in this district, and/or has engaged in continuous and systematic activities in Virginia.

9. LinkedIn is subject to personal jurisdiction in this district because it has committed, and continues to commit acts of infringement in Virginia, including in this district and division, and/or has engaged in continuous and systematic activities in Virginia.

10. Photobucket is subject to personal jurisdiction in this district because it has committed, and continues to commit, acts of infringement in Virginia, including upon information and belief by maintaining a data center containing servers in this district, and/or has engaged in continuous and systematic activities in Virginia.

11. Venue is proper under 28 U.S.C. §§ 1391 and 1400 because defendants have committed acts of infringement in this district and division, and/or are deemed to reside in this district and division.

Patents-in-Suit

12. On June 1, 2010, the United States Patent and Trademark Office ("USPTO") duly and legally issued United States Patent No. 7,730,132 ("the '132 Patent"), entitled "Storing and Accessing Media Files." Pragmatus holds all right, title, and interest in and to the '132 Patent. A true and correct copy of the '132 Patent is attached as Exhibit A.

13. On October 26, 2010, the USPTO duly and legally issued United States Patent No. 7,822,813 ("the '813 Patent"), entitled "Storing and Accessing Media Files." Pragmatus holds all right, title, and interest in and to the '813 Patent. A true and correct copy of the '813 Patent is attached as Exhibit B.

14. On November 9, 2010, the USPTO duly and legally issued United States Patent No. 7,831,663 ("the '663 Patent"), entitled "Storage and Playback of Media Files." Pragmatus holds all right, title and interest in and to the '663 Patent. A true and correct copy of the '663 Patent is attached as Exhibit C.

COUNT ONE – INFRINGEMENT BY FACEBOOK OF U.S. PATENT NO. 7,730,132

15. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 14 above.

16. Facebook has and continues to infringe directly one or more of claims of the '132 Patent by making, using, offering for sale, and/or selling the systems and/or practicing the methods covered by one or more claims of the '132 Patent, including by providing social network services that include video Upload, Record and linking features.

17. Facebook has and continues to infringe indirectly one or more claims of the '132 Patent by inducing others to infringe and/or contributing to the infringement by others, including users of Facebook's social network services that include video Upload, Record and linking features.

18. As a result of Facebook's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

COUNT TWO – INFRINGEMENT BY FACEBOOK OF U.S. PATENT NO. 7,822,813

19. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 14 above.

20. Facebook has and continues to infringe directly one or more of claims of the '813 Patent by making, using, offering for sale, selling and/or practicing the systems covered by one or more claims of the '813 Patent, including by providing social network services that include video Upload, Record and linking features.

21. Facebook has and continues to infringe indirectly one or more claims of the '813 Patent by inducing others to infringe and/or contributing to the infringement by others, including

users of Facebook's social network services that include video Upload, Record and linking features.

22. As a result of Facebook's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

COUNT THREE – INFRINGEMENT BY FACEBOOK OF U.S. PATENT NO. 7,831,663

23. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 14 above.

24. Facebook has and continues to infringe directly one or more of claims of the '663 Patent by making, using, offering for sale, and/or selling the systems and/or practicing the methods covered by one or more claims of the '663 Patent, including by providing social network services that include video Upload, Record and linking features.

25. Facebook has and continues to infringe indirectly one or more claims of the '663 Patent by inducing others to infringe and/or contributing to the infringement by others, including users of Facebook's social network services that include video Upload, Record and linking features.

26. As a result of Facebook's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

COUNT FOUR – INFRINGEMENT BY YOUTUBE OF U.S. PATENT NO. 7,730,132

27. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 14 above.

28. YouTube has and continues to infringe directly one or more of claims of the '132 Patent by making, using, offering for sale, and/or selling the systems and/or practicing the

methods covered by one or more claims of the '132 Patent, including by providing systems and services that allow users to upload, link to and comment on videos.

29. YouTube has and continues to infringe indirectly one or more claims of the '132 Patent by inducing others to infringe and/or contributing to the infringement by others, including users of YouTube's systems and services that allow users to upload, link to and comment on videos.

30. As a result of YouTube's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

COUNT FIVE – INFRINGEMENT BY YOUTUBE OF U.S. PATENT NO. 7,822,813

31. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 14 above.

32. YouTube has and continues to infringe directly one or more of claims of the '813 Patent by making, using, offering for sale, selling and/or practicing the systems covered by one or more claims of the '813 Patent, including by providing systems and services that allow users to upload, link to and comment on videos.

33. YouTube has and continues to infringe indirectly one or more claims of the '813 Patent by inducing others to infringe and/or contributing to the infringement by others, including users of YouTube's systems and services that allow users to upload, link to and comment on videos.

34. As a result of YouTube's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

COUNT SIX – INFRINGEMENT BY YOUTUBE OF U.S. PATENT NO. 7,831,663

35. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 14 above.

36. YouTube has and continues to infringe directly one or more of claims of the '663 Patent by making, using, offering for sale, selling the systems and/or practicing the methods covered by one or more claims of the '663 Patent, including by providing systems and services that allow users to upload, link to and comment on videos.

37. YouTube has and continues to infringe indirectly one or more claims of the '663 Patent by inducing others to infringe and/or contributing to the infringement by others, including users of YouTube's systems and services that allow users to upload, link to and comment on videos.

38. As a result of YouTube's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

COUNT SEVEN – INFRINGEMENT BY LINKEDIN OF U.S. PATENT NO. 7,822,813

39. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 14 above.

40. LinkedIn has and continues to infringe directly one or more of claims of the '813 Patent by making, using, offering for sale, selling and/or practicing the systems covered by one or more claims of the '813 Patent, including by providing social network services that include video upload and linking features.

41. LinkedIn has and continues to infringe indirectly one or more claims of the '813 Patent by inducing others to infringe and/or contributing to the infringement by others, including users of LinkedIn's social network services that include video upload and linking features.

42. As a result of LinkedIn's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

COUNT EIGHT – INFRINGEMENT BY LINKEDIN OF U.S. PATENT NO. 7,831,663

43. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 14 above.

44. LinkedIn has and continues to infringe directly one or more of claims of the '663 Patent by making, using, offering for sale, and/or selling the systems and/or practicing the methods covered by one or more claims of the '663 Patent, including by providing social network services that include video upload and linking features.

45. LinkedIn has and continues to infringe indirectly one or more claims of the '663 Patent by inducing others to infringe and/or contributing to the infringement by others, including users of LinkedIn's social network services that include video upload and linking features.

46. As a result of LinkedIn's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

**COUNT NINE – INFRINGEMENT BY PHOTOBUCKET OF
U.S. PATENT NO. 7,730,132**

47. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 14 above.

48. Photobucket has and continues to infringe directly one or more of claims of the '132 Patent by making, using, offering for sale, and/or selling the systems and/or practicing the methods covered by one or more claims of the '132 Patent, including by providing systems and services that allow users to upload, link to and comment on videos.

49. Photobucket has and continues to infringe indirectly one or more claims of the '132 Patent by inducing others to infringe and/or contributing to the infringement by others,

including users of Photobucket's systems and services that allow users to upload, link to and comment on videos.

50. As a result of Photobucket's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

**COUNT TEN – INFRINGEMENT BY PHOTOBUCKET OF
U.S. PATENT NO. 7,822,813**

51. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 14 above.

52. Photobucket has and continues to infringe directly one or more of claims of the '813 Patent by making, using, offering for sale, selling and/or practicing the systems covered by one or more claims of the '813 Patent, including by providing systems and services that allow users to upload, link to and comment on videos.

53. Photobucket has and continues to infringe indirectly one or more claims of the '813 Patent by inducing others to infringe and/or contributing to the infringement by others, including users of Photobucket's systems and services that allow users to upload, link to and comment on videos.

54. As a result of Photobucket's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

**COUNT ELEVEN – INFRINGEMENT BY PHOTOBUCKET
OF U.S. PATENT NO. 7,831,663**

55. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 14 above.

56. Photobucket has and continues to infringe directly one or more of claims of the '663 Patent by making, using, offering for sale, and/or selling the systems and/or practicing the

methods covered by one or more claims of the '663 Patent, including systems and services that allow users to upload, link to and comment on videos.

57. Photobucket has and continues to infringe indirectly one or more claims of the '663 Patent by inducing others to infringe and/or contributing to the infringement by others, including users of Photobucket's systems and services that allow users to upload, link to and comment on videos.

58. As a result of Photobucket's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

Demand for Jury Trial

Pragmatus hereby demands a trial by jury on all issues triable by jury.

Prayer for Relief

WHEREFORE, Pragmatus requests a judgment:

- A. That defendants have infringed one or more of United States Patent Nos. 7,730,132, 7,822,813 and 7,831,663;
- B. That United States Patent Nos. 7,730,132, 7,822,813 and 7,831,663 are valid and enforceable in law;
- C. Awarding to Pragmatus its damages caused by defendants' infringement of United States Patent Nos. 7,730,132, 7,822,813 and 7,831,663, including an assessment of pre-judgment and post-judgment interest and costs;
- D. That this is an exceptional case and awarding Pragmatus its reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and
- E. Awarding Pragmatus such other and further relief as this Court may deem just and proper.

PRAGMATUS AV, LLC
By Counsel



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Dated: November 15, 2010